

FILED IN OPEN COURT
DATE: 12/18/2024

KB
DEPUTY CLERK

Instruction No. 1

Members of the Jury you must now render special verdicts concerning property that the Government has alleged is subject to forfeiture to the United States.

The United States Code provides that all property derived from or constituting the proceeds of the offenses charged in Counts One through Five and Counts Eight and Nine is subject to forfeiture. As to the item of property for which the Government seeks forfeiture, you must find whether that property is connected to the underlying crime. I will define these terms for you in a moment.

The property that the Government is seeking to forfeit is \$10,000 in funds seized from a Blue Ridge Bank account ending in -8133 on January 31, 2023, which I will refer to as "the Funds."

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12/18/2024*

Instruction No. 2

Forfeiture means that, as part of the penalty for engaging in criminal activity, a defendant loses any ownership or interest he has or claims to have in certain property.

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Instruction No. 3

Section 981(a)(1)(C) of the United States Code provides, in part, that whoever is convicted of mail or wire fraud and/or bribery shall forfeit to the United States, "any property, real or personal, which constitutes or is derived from proceeds traceable to" the offense. The Government alleges that the Funds are forfeitable because they are traceable to the offenses alleged in Counts One through Five and Counts Eight and Nine.

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Instruction No. 4

When I use the term “proceeds of mail or wire fraud,” or “proceeds of bribery,” this term includes any monies or other property that the defendant obtained, directly or indirectly, as the result of his actions.

To determine if the Funds are forfeitable, you will be asked to return a Special Verdict of forfeiture on whether there is a nexus between the offenses and the Funds. In the instance of a “proceeds” forfeiture case such as this, there is a nexus if the Funds constitutes or derives from proceeds traceable to the offenses.

Proceeds satisfy the nexus test if a person would not have the money but-for the criminal offense. This means proceeds include the total amount of money obtained by the defendant as the result of his actions. There is no set-off for any costs or expenses the defendant incurred, and the term proceeds is not limited to the net gain or profit realized from the offense.

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Instruction No. 5

While deliberating, you should consider all of the evidence presented during this post-verdict proceeding and the trial, regardless of who offered it.

All the instructions previously given to you concerning duties of the jury, your consideration of the evidence, what is and is not evidence, the credibility of the witnesses, expert testimony, your duty to deliberate together, your duty to base your verdict solely on the evidence without prejudice, bias, or sympathy, and the necessity of a unanimous verdict, will continue to apply during these deliberations.

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Instruction No. 6

I instruct you that your previous findings that defendant is guilty of the violations set forth in Counts One through Five and Counts Eight and Nine are final, conclusive, and binding. Because you are bound by your previous findings that the defendant is guilty, I direct you not to discuss in your forfeiture deliberations whether the defendant is guilty or not guilty of any violations.

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Instruction No. 7

In deliberating and deciding your verdict regarding forfeiture, I instruct you that the Government need only prove by a preponderance of the evidence whether there is a connection, or nexus, between the offense and the Funds. The Government is not required to prove the nexus beyond a reasonable doubt.

“Preponderance of the evidence” means that a fact is more likely true than not true. The Government thus must prove that it is more likely than not that the Funds constitute or derive from proceeds traceable to the offenses. In other words, “preponderance of the evidence” means that the Government’s evidence, when considered and compared with that opposed to it, has more convincing force and produces in your minds a belief that there is a nexus between the Funds and Defendant’s crimes.

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12/18/2024